SHIFTING AIR TRAFFIC CONTROL TO A USER-FUNDED CORPORATION

Testimony of Robert W. Poole, Jr.

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My name is Robert W. Poole, Jr. I am the director of transportation studies at the Reason Public Policy Institute in Los Angeles. As a former aerospace engineer, I have been studying transportation issues for more than 20 years and have advised the U.S. Department of Transportation and various congressional committees on a number of occasions. In 1993-94 we advised the National Performance Review office on what became their proposal for a government corporation to take over air traffic control. And in 1997 we advised the National Civil Aviation Review Commission, as it assessed the problems of the nation's air traffic control system.

Having been involved with ATC reform since the days of the PATCO strike in 1981, I'm impressed by how much the debate has changed since then. There is a broad consensus within aviation policy circles on many issues that used to be very contentious. It is now widely accepted that ATC is an essentially commercial service, and that it is separate from air-safety regulation, which is inherently governmental. It is also increasingly accepted that the FAA's management and corporate culture are poorly suited to operating and modernizing a high-tech service business—and have not been significantly improved by the modest 1996 reforms of procurement and personnel systems. And it is also widely accepted that ATC funding should be driven by the growth of aviation activity—and not by the ups and downs of the federal budget process.

These conclusions are reflected in the work of the National Partnership for Reinventing Government. The same conclusions inspired the DOT's U.S. Air Traffic Services Corporation proposal in 1994-95. They underlie the strongly worded findings of the National Civil Aviation Review Commission in 1997. And they are backed up by nearly two decades of GAO reports and think tank studies.

We are here today because last summer and again this summer—just as NCARC warned—growing air traffic bumped up against the limits of our creaking, obsolete ATC system, resulting in record levels of airline delays, costing airlines and their passengers billions of dollars in extra costs and wasted time. That experience has led to a growing chorus from airline CEOs calling for removing the ATC system from the FAA and setting it up as a user-funded business. The bible of the industry, *Aviation Week*, has editorially endorsed this approach for several years.

One factor that has helped to shape this growing consensus is the actual experience of commercializing air traffic control around the world. Twenty years ago, when I first began working on this concept, there were no commercial ATC corporations to be found. The few that had been started—as nonprofit airline cooperative efforts, in the United States in the 1930s by ARINC, and in Cuba and Mexico—had all been taken over by their respective governments.

But beginning in the late 1980s, the same problems that plague our ATC system— inadequate or uncertain financial resources, poor cost-accounting, crippling bureaucratic rules on personnel and procurement, etc.—led to a growing wave of reform. One after another, starting with New Zealand, ATC operations were restructured as commercial corporations, either wholly owned by government or as nonprofits controlled by the

various aviation stakeholders. Among those taking this path are Australia, Canada, Germany, South Africa, Switzerland, and the U.K. ATC restructuring has been brought about by governments of both left and right, including Labor governments in New Zealand and the U.K. and a center-right government in Germany.

Four common elements emerge from these various ATC reforms:

- First, in virtually every case, governments have spun off the ATC service provider but have kept safety regulation as part of the government's transportation agency. Putting safety regulation at arms-length from service delivery is seen, correctly, as a way to improve air safety.
- Second, in every case but one, these ATC corporations are operated on a not-for-profit basis. (That one exception is the UK Labor government's current proposal to sell 51% of the National Air Traffic Service to private investors.) Because ATC is one of those rare cases of natural monopoly, it makes sense to operate it in this way, with any excess revenues either re-invested back in the corporation or used to reduce the following year's fees and charges.
- Third, nearly every one of these ATC corporations is funded directly and completely by its users. Fees and charges are the prices of the company's services; they do not get sent to the government, to be appropriated (or held in a trust fund). They are paid directly by the customers to the service provider (as with electricity charges by TVA and postal charges by USPS). And that makes the company accountable directly to its customers. As they say in Canada, "user pay means user say."
- Fourth, these ATC companies are able to fund modernization by issuing long-term revenue bonds, based on their predictable stream of revenue from fees and charges. Indeed, NavCanada's bonds had no trouble receiving investment-grade ratings. The financial community loves this kind of investment.

In addition to these common features of commercialized ATC corporations, we also find a common pattern in their experience. To put it simply, ATC commercialization works. By that I mean: it solves the problems that have plagued government-run air traffic control in country after country. Following commercialization, we typically find that the unit cost of providing ATC services comes down, modernization proceeds more quickly and smoothly, and flight delays are therefore reduced. (In Canada, the commercialized ATC provider is implementing NASA-developed ATC software called CTAS—the Center-TRACON Automation System--in three years, compared with an estimated 10 years it will take the FAA to do likewise here.) In no country has there been any reduction in air safety, and most observers believe safety levels have increased.

In short, compared to 20 years ago when ATC commercialization was mostly theory, today we can draw on a wealth of experience from around the world. All of it points to the conclusion that moving ATC out of a government bureacracy, converting it into a commercial corporate form, charging users directly for services and making it directly accountable to those users for its performance, and regulating it at arms-length for safety--this kind of fundamental reform works.

The logical next question is: How can we apply this experience to the United States? That is the question that my organization has been addressing since last winter. Our three-member project team is developing a detailed proposal for an Airways Corporation that could take over ATC functions from the FAA and operate in a commercialized manner. We are seeking input as we go along from the entire aviation community—major airlines, low-fare airlines, cargo carriers, air-taxi operators, business aircraft owners, recreational flyers, air traffic controllers, and others. Since this is still a work in progress, I cannot give you the final results today. As you can imagine, this is a very complex project, and different stakeholders have somewhat different interests that must be taken into account in coming up with a workable plan. But I can give you some broad outlines of where we are heading.

First, having reviewed the global ATC reform experience, we believe that the stakeholder-controlled not-for-profit corporation is the best model for the United States. It is working very well in Canada, with which we share a major border and have extensive air commerce. And it harkens back to the origins of U.S. air traffic control, which was begun on exactly this basis by Aeronautical Radio, Inc. (ARINC) in the 1930s. So we have defined a nonprofit ATC corporation with a stakeholder-controlled board of directors.

The Airways Corporation would provide all civilian ATC services in the United States and in the oceanic regions for which this country is responsible. It would hire a top management team to run the company, but would take over essentially all of the current FAA staff in Air Traffic Services and Research and Acquisitions, and all current FAA ATC facilities. It would keep its books using generally accepted accounting principles (GAAP) like a normal company. And it would be free to pay market-based compensation to all its employees—both management and nonmanagement—so as to ensure the best possible talent for each position. It would be free to define and purchase new technology in the same way as any private business.

The most crucial element of this reform is to develop a corporate culture that is driven by and responsive to customer needs. That will only happen if the company must derive its revenues by meeting their needs—in other words, if it derives its revenue directly from its customers, via fees and charges. This process is what drives the remarkable productivity of the entire U.S. economy. And we can now see that it works in air traffic control, as well. To repeat the *leitmotif* of Canadian ATC reform, "user pay means user say."

We fully appreciate that developing the specifics of ATC fees and charges is no easy task. We are devoting considerable effort to coming up with a pricing proposal that is both simple and fair to all aviation users. Until we complete our stakeholder review process, I don't want to go into more specifics on this issue. But because we all know that private pilot groups have great concerns about this issue, let me say just a few words on that score.

Our plan will propose that current federal aviation user taxes be abolished, as part of the transition to the new, commercialized system. The underlying principle is that the new ATC fees and charges will apply only where users make actual use of ATC services. A private plane shooting touch-and-go landings at a non-towered airport is not using the system and should not be charged by the system—or by the federal government. But those who do use ATC services should pay for the use of those services—again, in as fair and simple a manner as possible. And as stakeholders in the system, they should be represented on its board. This includes military and civilian government users, whose budgets should include the cost of using ATC services, just as it includes buying fuel for their aircraft.

The overseas experience clearly demonstrates that an Airways Corporation can easily be self-funding. Like any other utility business providing a vital public service (e.g., electricity or water) by investing in long-lived infrastructure, the most appropriate way to pay for that infrastructure is via long-term revenue bonds. With a robust stream of revenue from fees and charges, such bonds could easily earn investment-grade ratings. Wall Street will be only too happy to arrange these bond issues. Hence, we strongly recommend that the corporation not be allowed to borrow from the Treasury. Since one of the key objectives of this reform is to develop a user-responsive corporate culture— i.e., one that will choose wise and cost-effective investments, rather than white elephants such as the now abandoned Microwave Landing System—is is important that all such investment plans be required to pass the market-testing of the financial markets.

Finally, let me address the question of regulation. There are two potential types of regulation involved: safety and economic. In terms of safety regulation, the FAA will become the arms-length regulator of the new corporation. That will put air traffic control on the same basis as all the other participants in the aviation system: airlines, private plane owner/operators, airframe and engine producers, airports, pilots, and mechanics. All are regulated at arms-length by the aviation safety regulator. It will be no different in the case of the ATC service provider. Most countries that have commercialized ATC consider this separation of regulation from operations to be a significant strengthening of air safety.

When it comes to economic regulation, I noted previously that the Airways Corporation will be a natural monopoly. The corporate structure we propose is a not-for-profit corporation with a stakeholder board—essentially, a *user cooperative.* In theory, such a structure should represent the interests of its customers and not require the usual kind of public utility regulation (whose purpose it to look out for the interests of its customers). However, we all know that the interests of business-jet operators and those of cargo carriers and those of major airlines are not identical. We believe there will still be a need for external review and appeal of the corporation's decisions on such things as fees and charges and of changes in levels of service. At this point, we think such review and appeal is best carried out by the DOT, just as appeals from rail shippers can be taken to the DOT's Surface Transportation Board.

Congress will, of course, continue to have the responsibility to fund the FAA and DOT, and to exercise the needed oversight of all of their operations, including their regulatory responsibilities with respect to air traffic control.

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In closing, I would like to stress the urgency of this kind of fundamental, structural reform of the way we provide and pay for air traffic control in this country. The current system has failed to bring about modernization of the ATC system—modernization that is essential if we are not to succumb to gridlock and far worse delays than were experienced last spring and summer. The shift from ground-based to space-based ATC, based on GPS and data link, promises a major increase in both en-route and runway capacity. But the FAA has been institutionally incapable of delivering this modernization, wasting billions on such fiascos as the Advanced Automation System and the Microwave Landing System.

There are several reasons for this structural failure. One is the FAA's cumbersome procurement process. When a new generation of computer electronics comes along every 18 months and it takes the FAA five to eight years to procure a new system, you have a recipe for getting further and further behind the state of the art. This is due in part to the FAA's proclivity for defining everything to death in-house, rather than making creative use of off-the-shelf systems where feasible. A commercial ATC corporation will be able to upgrade its technology as quickly and efficiently as other high-tech businesses.

Another structural problem is uncertain funding. The vitally needed controller-to-pilot data link is a key element in free flight, but is being delayed by stop-and-go FAA funding. Implementing data link requires synchronized schedules involving airlines, avionics makers, and ATC facilities on the ground—but FAA budget problems play havoc with this synchronization. An ATC corporation would have assured funding for such modernization programs via its revenue bonds.

But the most important structural failing is this: the FAA is not customer-driven. Regarding free flight, WAAS, data link, and other key technologies, there is no urgency or sense of commitment to meeting users' needs as soon as possible. This is a basic problem of corporate culture. And it will only be solved when the ATC organization is paid directly by its customers and held accountable for results by those customers.

This concludes my presentation today. As I said previously, my comments are based on our work-in-progress on defining a plan for ATC commercialization that can gain widespread support within the aviation community. We are getting close to a finished product, which we hope to publish late this fall. I'll be sure you all receive copies.